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09/315,795	05/21/1999	AMIR WEINBERG	MERCURY.1CP1C1	6943
20995 7590 04/11/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER NGUYEN, THU HA T	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* AMIR WEINBERG and ERAN LESHEM

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Appeal 2007-3588  
Application 09/315,795  
Technology Center 2100

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Decided: April 9, 2008

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*Before* JAMES D. THOMAS, ALLEN R. MACDONALD, and STEPHEN  
C. SIU, *Administrative Patent Judges*.

MACDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL  
STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) from multiple  
rejections of claims 28-70.

Claim 28 is exemplary:

28. A computer-implemented method for facilitating the management of a web site, comprising:

scanning the web site to generate a first data structure which represents the web site at a first point in time, wherein the web site comprises a collection of inter-linked hypertextual documents;<sup>1</sup>

subsequently, after changes have been made to the web site, scanning the web site to generate a second data structure which represents the web site at a second point in time;

comparing the first data structure to the second data structure to identify modifications that were made to the web site between the first and the second points in time;<sup>2</sup> and

generating a graphical map in which at least some of the modifications are represented.<sup>3</sup>

The evidence relied upon by the Examiner in rejecting the claims on appeal is:

Ball	US 6,366,933 B1	Apr. 2, 2002 (filed Oct. 27, 1995)
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Claims 28-70 stand rejected under 35 U.S.C. § 102(e) as anticipated by Ball. Although claims 28-70 stand rejected (Ans. 2), claims 36-43 are not included in the Appellants' statement of issues presented on appeal

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<sup>1</sup> We refer to this step as the "scanning step."

<sup>2</sup> We refer to this step as the "comparing step."

<sup>3</sup> We refer to this step as the "generating step."

(App. Br. 2<sup>4</sup>). As to any claims not specifically argued, we sustain the rejection of claims not included in the statement of issues presented on appeal.

We affirm.

#### CLAIM GROUPINGS

Appellants set forth the following claim groupings:

Group 1: claims 28-33, 35, 44, 45, 47, 50-66, and 68-70;

Group 2: claims 46 and 67;

Group 3: claims 34, 48, and 49; and

Group 4: claim 51.

(Orig. App. Br. 4<sup>5</sup>.)

Appellants incorporate these claim groupings of Groups 1-4 into the Supplemental Appeal Brief. (App. Br. 1.)

We note that claims 36-43 are *not* included within any claim grouping designated by Appellants.

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<sup>4</sup> We refer to the Supplemental Appeal Brief received Dec. 19, 2002 as the Appeal Brief (App. Br.).

<sup>5</sup> We refer to the Appeal Brief received Jul. 30, 2002 as the Original Appeal Brief (Orig. App. Br.).

## FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

### *Ball*

1. Ball discloses that a page includes references to other pages or documents so that a user can access a referenced page by clicking on a reference. (Col. 2, l. 65 – col. 3, l. 12.)
2. Ball discloses storing versions of a web site at various points in time. (Col. 15, ll. 23-25.)
3. Ball discloses comparing HTML code of a first version of a web site with HTML code of a second, subsequent version of the web site. (Col. 6, ll. 45-54; col. 10, ll. 26-34; and col. 11, ll. 15-27.)
4. Ball discloses displaying changes between first and second versions of a web site. (Figs. 3-5 and 11-13, col. 2, ll. 23-35; col. 5, ll. 4-40; col. 9, ll. 20-26; and col. 10, ll. 25-38.)
5. Ball discloses indicating that a web site has a new link to a URL. (Col. 19, ll. 57-61.)
6. Ball discloses comparing web sites automatically according to a particular frequency, such as weekly or on odd-numbered dates. (Col. 8, ll. 7-19.)
7. Ball discloses an option to display any version of a web site, such as an original, unmodified version of the website. (Col. 9, ll. 17-18.)

## PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. However, this is not an "ipsissimis verbis" test and the reference need not use the same terms to be within the scope of what is claimed. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990).

## ANALYSIS

### Group 1

(Claims 28-33, 35, 44, 45, 47, 50-66, and 68-70)

We select claim 28 as the representative claim to decide the appeal of all claims in Group 1. 37 C.F.R. § 41.37(c)(1)(vii) (2005).

The Examiner finds that Ball anticipates claim 28. (Ans. 2-3). Appellants allege Ball does not anticipate claim 28 because Ball does not disclose the scanning, comparing, and generating steps. (App. Br. 4-6.) Thus, the issues are whether Appellants have shown that the Examiner erred in finding that Ball discloses the scanning, comparing, and generating steps.

### *Scanning step*

Appellants argue that Ball does not disclose the scanning step because Ball discloses a *web page* but does not disclose a *web site*, which Appellants define as “a database or other collection of inter-linked hypertextual documents . . . and associated data entities.” (App. Br. 4.)

Ball discloses that a page includes references to other pages or documents so that a user can access a referenced page by clicking on a reference. (FF 1.) We find that Ball’s page that includes references to other pages discloses a collection of inter-linked documents and thus discloses the claimed web site.

In addition, Appellants argue that Ball does not disclose the scanning step because Ball does not disclose automatically identifying changes to a web site. (App. Br. 4-5.)

Ball discloses indicating whether a second version of the web site includes new content that is not present in a first version of the web site. (FF 3-5.) Ball discloses comparing web sites automatically according to a particular frequency, such as weekly or on odd-numbered dates. (FF 6.) We find that Ball discloses automatically indicating changes to a web site.

Therefore, we conclude that Appellants have not shown that the Examiner erred in finding that Ball discloses the scanning step.

*Comparing step*

Appellants argue that Ball's monitoring web pages to determine whether the pages have been modified and Ball's detecting changes to the pages do not disclose the comparing step. (App. Br. 5.)

Ball discloses storing various HTML code versions of a web site and comparing HTML code of a first version with HTML code of a second, subsequent, version of the web site. (FF 2 and 3.) Ball discloses indicating whether a second version of the web site includes new content. (FF 3-5.) We find that Ball's comparing HTML code of first and second versions of a web site discloses the comparing a first data structure to a second data structure of the comparing step. We find that Ball's displaying changes between first and second versions discloses the identifying modifications to a web site between first and second points in time of the comparing step. Thus, we conclude that Appellants have not shown that the Examiner erred in finding that Ball discloses the comparing step.

*Generating step*

Appellants argue that Ball's displaying a list of the URLs within a hot list that have changed, and the display of a comparison-document showing changes made within specific documents does not disclose the generating step. (App. Br. 5-6.)

We find that Ball discloses displaying changes to a web site. (FF 4-5.) Ball's displaying changes to a web site discloses the claimed



generating a graphical map in which at least some of the modifications made to the web site are represented of the generating step. Thus, we conclude that Appellants have not shown that the Examiner erred in finding that Ball discloses the generating step.

Accordingly, we sustain the Examiner's rejections of claims 28-33, 35, 44, 45, 47, 50-66, and 68-70 under 35 U.S.C. § 102(e) over Ball.

Group 2

(Claims 38, 46, and 67)<sup>6</sup>

We select claim 46 as the representative claim on which to decide the appeal of all claims in Group 2.

The Examiner finds that Ball anticipates claim 46. (Ans. 8.) Appellants argue that Ball fails to anticipate claim 46 because Ball does not “identify or represent the new nodes that have been added to a web site.” (App. Br. 6.) Thus, the issue is whether Appellants have shown that the Examiner erred in finding that Ball anticipates claim 46. The issue turns on whether Ball discloses identifying that new nodes have been added to a web site.

We begin our analysis by construing the claimed “node.” Appellants' Specification states that “the term ‘node’ refers generally to a URL icon as displayed within the site map.” (Spec. 17:23-24.) Accordingly, we broadly but reasonably construe a “node” as a URL identifier.

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<sup>6</sup> Although Appellants have *not* identified claim 38 as part of Group 2 (Orig. App. Br. 4), we treat claim 38 as part of Group 2 given Appellants' argument directed to claim 38 (App. Br. 6).

Ball discloses indicating when new URLs have been added to a web site (FF 5) and thus discloses indicating new URL identifiers in a web site. Accordingly, we find that Ball's indicating new URL identifiers in a web site discloses identifying that new nodes have been added to a web site. Thus, we conclude that Appellants have not shown that the Examiner erred in finding that Ball anticipates claim 46.

Accordingly, we sustain the Examiner's rejections of claims 38, 46, and 67 under 35 U.S.C. § 102(e) over Ball.

Group 3

(Claims 34, 42, 43, 48, and 49)<sup>7</sup>

We select claim 34 as the representative claim on which to decide the appeal of all claims in Group 3.

The Examiner finds that Ball anticipates claim 34. (Ans. 4.) Appellants argue that Ball's periodically checking specific hot-listed web pages to see if they have changed does not disclose scanning a web site automatically according to a pre-defined schedule. (App. Br. 6-7.) Thus, the issue is whether Appellants have shown that the Examiner erred in finding that Ball anticipates claim 34. The issue turns on whether Ball discloses scanning a web site automatically according to a pre-defined schedule.

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<sup>7</sup> Although Appellants have *not* identified claims 42 and 43 as part of Group 3 (Orig. App. Br. 4), we treat claims 42 and 43 as part of Group 3 given Appellants' argument directed to claims 42 and 43 (App. Br. 6).

We find that Ball discloses comparing web sites automatically according to a particular frequency, such as weekly or on odd-numbered dates. (FF 6.) We find that Ball's comparing web sites automatically weekly or on odd-numbered days discloses scanning a web site automatically according to a pre-defined schedule. Thus, we conclude that Appellants have not shown that the Examiner erred in finding that Ball anticipates claim 34.

Accordingly, we sustain the Examiner's rejections of claims 34, 42, 43, 48, and 49 under 35 U.S.C. § 102(e) over Ball.

Group 4  
(Claim 51)

The Examiner finds that Ball anticipates claim 51. (Ans. 8.) In addition to arguments made with regard to Group 1 *supra*, Appellants argue that Ball fails to anticipate claim 51 by failing to disclose presenting a user with an option to display or conceal changed features comprising new nodes, modified nodes, deleted nodes, unmodified nodes, new links, deleted links, and unmodified links. (App. Br. 7.) Thus the issue is whether Appellants have shown that the Examiner erred in finding that Ball anticipates claim 51. The issue turns on whether Ball discloses the option to display or conceal changed features.

We find that Ball discloses an option to *display* changed features by displaying a changed version of a web site indicating changes to the document. (FF 4 and 5.) We find that Ball discloses an option to *conceal*

the changed features by displaying an original, unmodified version of a website. (FF 7.) Thus, we find that Ball discloses an option to display or conceal the changed features. Thus, we conclude that Appellants have not shown that the Examiner erred in finding that Ball anticipates claim 51.

Accordingly, for these additional reasons, we sustain the Examiner's rejection of claim 51 under 35 U.S.C. § 102(e) over Ball.

#### CONCLUSION OF LAW

We conclude that:

(1) Appellants have not shown that the Examiner erred in finding that claims 28-70 are anticipated under 35 U.S.C. § 102(e) by Ball.

(2) Claims 28-70 are unpatentable.

#### DECISION

The Examiner's rejection of claims 28-70 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2007-3588  
Application 09/315,795

AFFIRMED

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